

**Executive Summary – Enforcement Matter – Case No. 44417**

**City of Megargel**

**RN101386605**

**Docket No. 2012-1289-PWS-E**

**Order Type:**

Findings Agreed Order

**Findings Order Justification:**

Three or more enforcement actions (NOVs, orders, etc.) over the prior five year period for the same violation(s).

**Media:**

PWS

**Small Business:**

No

**Location(s) Where Violation(s) Occurred:**

City of Megargel, 902 Cedar Street, Megargel, Archer County

**Type of Operation:**

Public water supply

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** November 23, 2012

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$1,104

**Amount Deferred for Expedited Settlement:** \$0

**Amount Deferred for Financial Inability to Pay:** \$0

**Total Paid to General Revenue:** \$1,104

**Total Due to General Revenue:** \$0

Payment Plan: N/A

**SEP Conditional Offset:** \$0

Name of SEP: N/A

**Compliance History Classifications:**

Person/CN - Average

Site/RN - N/A

**Major Source:** No

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** September 2002

**Executive Summary – Enforcement Matter – Case No. 44417**

**City of Megargel**

**RN101386605**

**Docket No. 2012-1289-PWS-E**

***Investigation Information***

**Complaint Date(s):** N/A

**Complaint Information:** N/A

**Date(s) of Investigation:** May 14, 2012

**Date(s) of NOE(s):** May 18, 2012

***Violation Information***

1. Failed to comply with the maximum contaminant level (“MCL”) of 0.080 milligrams per liter for total trihalomethanes (“TTHMs”) based on the running annual average [30 TEX. ADMIN. CODE § 290.113(f)(4) and TEX. HEALTH & SAFETY CODE § 341.0315(c)].

2. Failed to submit routine reports and any additional documentation that the Executive Director may require to determine compliance with the requirements of this chapter [30 TEX. ADMIN. CODE § 290.46(f)(3)(c)(iii) and (f)(4)].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

N/A

**Technical Requirements:**

The Order will require the Respondent to:

- a. Within 30 days, submit the Recycling Practices Report;
- b. Within 45 days, submit written certification demonstrating compliance with Ordering Provision a.;
- c. Within 365 days, return to compliance with the running annual average MCL for TTHM; and
- d. Within 380 days, submit written certification demonstrating compliance with Ordering Provision c.

***Litigation Information***

**Date Petition(s) Filed:** N/A

**Date Answer(s) Filed:** N/A

**SOAH Referral Date:** N/A

**Hearing Date(s):** N/A

**Settlement Date:** N/A

**Executive Summary – Enforcement Matter – Case No. 44417**  
**City of Megargel**  
**RN101386605**  
**Docket No. 2012-1289-PWS-E**

***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Katy Schumann, Enforcement Division,  
Enforcement Team 2, MC 169, (512) 239-2602; Debra Barber, Enforcement Division,  
MC 219, (512) 239-0412

**TCEQ SEP Coordinator:** N/A

**Respondent:** The Honorable Kelly DeSautel, Mayor, City of Megargel, P.O. Box 31,  
Megargel, Texas 76370

**Respondent's Attorney:** N/A





# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

**DATES** Assigned PCW 4-Jun-2012  
27-Jul-2012 Screening 21-Jun-2012 EPA Due 30-Jun-2011

## RESPONDENT/FACILITY INFORMATION

Respondent City of Megargel  
Reg. Ent. Ref. No. RN101386605  
Facility/Site Region 3-Abilene Major/Minor Source Minor

## CASE INFORMATION

Enf./Case ID No. 44417 No. of Violations 2  
Docket No. 2012-1289-PWS-E Order Type Findings  
Media Program(s) Public Water Supply Government/Non-Profit Yes  
Multi-Media EC's Team Enforcement Team 2  
Admin. Penalty \$ Limit Minimum \$50 Maximum \$1,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** Subtotal 1 \$600

## ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

**Compliance History** 84.0% Enhancement Subtotals 2, 3, & 7 \$504

Notes Enhancement for six NOVs with same/similar violations, two NOVs with dissimilar violations and two final enforcement orders without a denial of liability.

**Culpability** No 0.0% Enhancement Subtotal 4 \$0

Notes The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply Total Adjustments** Subtotal 5 \$0

**Economic Benefit** 0.0% Enhancement\* Subtotal 6 \$0

Total EB Amounts \$1,242  
Approx. Cost of Compliance \$5,135  
\*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** Final Subtotal \$1,104

**OTHER FACTORS AS JUSTICE MAY REQUIRE** 0.0% Adjustment \$0

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount \$1,104

**STATUTORY LIMIT ADJUSTMENT** Final Assessed Penalty \$1,104

**DEFERRAL** 0.0% Reduction Adjustment \$0

Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

No deferral is recommended for Findings Orders.

**PAYABLE PENALTY** \$1,104

Screening Date 21-Jun-2012

Docket No. 2012-1289-PWS-E

PCW

Respondent City of Megargel

Policy Revision 2 (September 2002)

Case ID No. 44417

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101386605

Media [Statute] Public Water Supply

Enf. Coordinator Katy Schumann

**Compliance History Worksheet**

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	6	30%
	Other written NOVs	2	4%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	2	50%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgements or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

**Adjustment Percentage (Subtotal 2)** 84%

## &gt;&gt; Repeat Violator (Subtotal 3)

N/A

**Adjustment Percentage (Subtotal 3)** 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

Average Performer

**Adjustment Percentage (Subtotal 7)** 0%

## &gt;&gt; Compliance History Summary

**Compliance History Notes**

Enhancement for six NOVs with same/similar violations, two NOVs with dissimilar violations and two final enforcement orders without a denial of liability.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 84%

Screening Date 21-Jun-2012

Docket No. 2012-1289-PWS-E

PCW

Respondent City of Megargel

Policy Revision 2 (September 2002)

Case ID No. 44417

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101386605

Media [Statute] Public Water Supply

Enf. Coordinator Katy Schumann

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 290.113(f)(4) and Tex. Health &amp; Safety Code § 341.0315(c)

## Violation Description

Failed to comply with the maximum contaminant level ("MCL") of 0.080 milligrams per liter ("mg/L") for total trihalomethanes ("TTHMs") based on the running annual average. Specifically, at the time of the record review, it was documented that the running annual average concentration for TTHM was 0.090 mg/L for the second quarter of 2010, 0.132 mg/L for the third quarter of 2010, 0.163 mg/L for the fourth quarter of 2010, 0.178 mg/L for the first quarter of 2011, 0.189 mg/L for the second quarter of 2011, 0.205 mg/L for the third quarter of 2011, 0.171 mg/L for the fourth quarter of 2011 and 0.175 mg/L for the first quarter of 2012.

Base Penalty \$1,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual		x	
Potential			

Percent 25%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Exceeding the MCL for TTHM caused the customers of the Facility to be exposed to significant amounts of pollutants which did not exceed levels protective of human health.

Adjustment \$750

\$250

## Violation Events

Number of Violation Events 2

730 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	x
	single event	

Violation Base Penalty \$500

Two annual events are recommended.

## Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$500

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$1,227

Violation Final Penalty Total \$920

This violation Final Assessed Penalty (adjusted for limits) \$920

# Economic Benefit Worksheet

Respondent City of Megargel  
Case ID No. 44417  
Reg. Ent. Reference No. RN101386605  
Media Public Water Supply  
Violation No. 1

Percent Interest 5.0  
Years of Depreciation 15

Item Cost Date Required Final Date Yrs Interest Saved Onetime Costs EB Amount  
Item Description No commas or \$

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$5,000	30-Jun-2010	31-Dec-2013	3.51	\$58	\$1,169	\$1,227
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the estimated amount for the Facility to implement an alternative form of disinfection, calculated from the last day of the first quarter of noncompliance to the estimated date of compliance.

## Avoided Costs

### ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$5,000

TOTAL

\$1,227



Screening Date 21-Jun-2012

Docket No. 2012-1289-PWS-E

PCW

Respondent City of Megargel

Policy Revision 2 (September 2002)

Case ID No. 44417

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101386605

Media [Statute] Public Water Supply

Enf. Coordinator Katy Schumann

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code § 290.46(f)(3)(c)(iii) and (f)(4)

Violation Description

Failed to submit routine reports and any additional documentation that the Executive Director may require to determine compliance with the requirements of this chapter. Specifically, in a letter dated April 6, 2011, an updated Recycling Practices Report ("RPR") was requested within 90 days but was not submitted.

Base Penalty \$1,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$900

\$100

## Violation Events

Number of Violation Events 1

39 Number of violation days

mark only one  
with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$100

One single event is recommended.

## Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$100

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$15

Violation Final Penalty Total \$184

This violation Final Assessed Penalty (adjusted for limits) \$184

# Economic Benefit Worksheet

**Respondent** City of Megargel  
**Case ID No.** 44417  
**Reg. Ent. Reference No.** RN101386605  
**Media** Public Water Supply  
**Violation No.** 2

**Percent Interest** 5.0  
**Years of Depreciation** 15

**Item Cost** **Date Required** **Final Date** **Yrs** **Interest Saved** **Onetime Costs** **EB Amount**  
**Item Description** No commas or \$

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$135	5-Jul-2011	31-Jan-2013	1.58	\$1	\$14	\$15
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

## Notes for DELAYED costs

The delayed cost includes the estimated amount to prepare an updated RPR and submit it to the Executive Director, calculated from the date the report was due to the estimated date of compliance.

## Avoided Costs

### ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

## Notes for AVOIDED costs

Approx. Cost of Compliance

\$135

TOTAL

\$15

# Compliance History Report

Customer/Respondent/Owner-Operator: CN600341184 City of Megargel Classification: AVERAGE Rating: 1.01  
Regulated Entity: RN101386605 CITY OF MEGARGEL Classification: Site Rating:  
ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 0050012  
Location: 902 CEDAR STREET, MEGARGEL, ARCHER COUNTY, TEXAS  
TCEQ Region: REGION 03 - ABILENE  
Date Compliance History Prepared: July 31, 2012  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: July 31, 2007 to July 31, 2012  
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History  
Name: Katy Schumann Phone: (512) 239-2602

## Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? YES
2. Has there been a (known) change in ownership/operator of the site during the compliance period? NO
3. If YES, who is the current owner/operator? N/A
4. If YES, who was/were the prior owner(s)/operator(s)? N/A
5. If YES, when did the change(s) in owner or operator occur? N/A
6. Rating Date: N/A Repeat Violator: N/A

## Components (Multimedia) for the Site:

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.

Effective Date: 10/04/2007ADMINORDER 2007-0574-PWS-E

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)

5A THC Chapter 341, SubChapter A 341.0315(c)

Description: Violated the maximum contaminant level for trihalomethanes during the fourth quarter of 2005.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(5)

5A THC Chapter 341, SubChapter A 341.0315(c)

Description: Violated the maximum contaminant level for HAA5 during the first quarter of 2006.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)

5A THC Chapter 341, SubChapter A 341.0315(c)

Description: Violated the maximum contaminant level for trihalomethanes during the first quarter of 2006.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(5)

5A THC Chapter 341, SubChapter A 341.0315(c)

Description: Violated the maximum contaminant level for haloacetic acids during the second quarter of 2006.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)

5A THC Chapter 341, SubChapter A 341.0315(c)

Description: Violated the maximum contaminant level for trihalomethanes during the second quarter of 2006.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(5)

5A THC Chapter 341, SubChapter A 341.0315(c)

Description: Violated the maximum contaminant level for haloacetic acids during the third quarter of 2006.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)

5A THC Chapter 341, SubChapter A 341.0315(c)

Description: Violated the maximum contaminant level for trihalomethanes during the third quarter of 2006.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(5)

5A THC Chapter 341, SubChapter A 341.0315(c)

Description: Violated the maximum contaminant level for haloacetic acids during the fourth quarter of

2006.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)  
5A THC Chapter 341, SubChapter A 341.0315(c)

Description: Violated the maximum contaminant level for trihalomethanes during the fourth quarter of 2006.

Effective Date: 01/12/2008

ADMINORDER 2007-0130-PWS-E

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.111(b)(1)(A)(i)

Description: the City did not maintain the turbidity level of the combined filter effluent so as not to exceed 1.0 Nephelometric Turbidity Unit ("NTU"). Specifically, the turbidity level of the combined filter effluent was greater than 1.0 NTU for one day in June 2005.

Classification: Major

Citation: 30 TAC Chapter 290, SubChapter F 290.111(f)(4)

Description: the City failed to maintain the turbidity level of the combined filter effluent below 5.0 NTU, indicating an acute treatment violation. Specifically, the turbidity level of the combined filter effluent at the facility was greater than 5.0 NTU for two days in July 2005 and four days in August 2005.

Classification: Major

Citation: 30 TAC Chapter 290, SubChapter F 290.111(f)(4)

Description: the City failed to maintain the turbidity level of the combined filter effluent below 5.0 NTU, indicating an acute treatment violation. Specifically, the turbidity level of the combined filter effluent at the facility was greater than 5.0 NTU for two days in July 2005 and four days in August 2005.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.111(b)(1)(A)(ii)

Description: the City did not maintain the turbidity level of the combined filter effluent so as not to exceed 0.3 NTU in at least 95% of the samples tested each month. Specifically, the turbidity levels of the combined filter effluent were less than or equal to the 0.3 NTU limit in 77% of the samples taken in August 2005.

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter F 290.111(f)(2)

Description: the City failed to report the results of the individual filter effluent turbidity test for one day in July 2006.

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	08/20/2010	(1006731)
2	05/16/2012	(1006927)
3	05/16/2012	(1006938)
4	05/16/2012	(1006941)
5	05/16/2012	(1006946)
6	05/16/2012	(1006949)
7	05/28/2012	(1006999)
8	08/24/2007	(573182)
9	12/19/2007	(612451)
10	05/12/2009	(687283)
11	05/28/2010	(824636)
12	10/28/2010	(872295)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 08/31/2007 (573182)

CN600341184

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter F 290.110(c)(1)(B)

Description: Failure to monitor disinfection facilities based on an approved Contact Time (CT) study.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(e)(6)(C)

Description: Failure to staff the SWTP with at least one Class "C" or higher surface water operator when it is in operation or equip the plant with automatic plant shutdown features.

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.42(e)(4)(A)

Description: Failure to provide a SCBA or supplied air respirator and a small bottle of fresh

ammonia solution outside the chlorinator room to test for chlorine leaks.  
Date: 05/28/2010 (824636) CN600341184  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(3)  
Description: Failure to provide an overflow that reaches the ground on the 0.075 MG GST at the plant site.  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(13)  
Description: Failure to label the chemical feed lines and water lines in the plant.  
Date: 08/20/2010 (1006731) CN600341184  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)  
Description: TTHM MCL 2Q2010 - The system violated the maximum contaminant level for trihalomethanes during the second quarter of 2010.  
Date: 12/20/2010 (1006927) CN600341184  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)  
Description: TTHM MCL 3Q2010 - The system violated the maximum contaminant level for trihalomethanes during the third quarter of 2010.  
Date: 09/14/2011 (1006941) CN600341184  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)  
Description: TTHM MCL 2Q2011 - The system violated the maximum contaminant level for trihalomethanes during the second quarter of 2011.  
Date: 09/14/2011 (1006938) CN600341184  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)  
Description: TTHM MCL 1Q2011 - The system violated the maximum contaminant level for trihalomethanes during the first quarter of 2011.  
Date: 12/27/2011 (1006946) CN600341184  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)  
Description: TTHM MCL 3Q2011 - The system violated the maximum contaminant level for trihalomethanes during the third quarter of 2011.  
Date: 03/28/2012 (1006949) CN600341184  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)  
Description: TTHM MCL 4Q2011 - The system violated the maximum contaminant level for trihalomethanes during the fourth quarter of 2011.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A



# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
CITY OF MEGARGEL  
RN101386605**

**§        BEFORE THE  
§  
§        TEXAS COMMISSION ON  
§  
§        ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2012-1289-PWS-E**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Megargel (the "Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

### **I. FINDINGS OF FACT**

1. The Respondent owns and operates a public water supply at 902 Cedar Street in Megargel, Archer County, Texas (the "Facility") that has approximately 188 service connections and serves at least 25 people per day for at least 60 days per year.

2. During a record review conducted on May 14, 2012, TCEQ staff documented that the running annual average concentration for total trihalomethanes ("TTHMs") was 0.090 milligrams per liter ("mg/L") for the second quarter of 2010, 0.132 mg/L for the third quarter of 2010, 0.163 mg/L for the fourth quarter of 2010, 0.178 mg/L for the first quarter of 2011, 0.189 mg/L for the second quarter of 2011, 0.205 mg/L for the third quarter of 2011, 0.171 mg/L for the fourth quarter of 2011 and 0.175 mg/L for the first quarter of 2012.
3. During a record review conducted on May 14, 2012, TCEQ staff documented in a letter dated April 6, 2011, an updated Recycling Practices Report ("RPR") was requested within 90 days, but was not submitted.
4. The Respondent received notice of the violations on May 29, 2012.

## **II. CONCLUSIONS OF LAW**

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 2, the Respondent failed to comply with the maximum contaminant level ("MCL") of 0.080 mg/L for TTHMs based on the running annual average, in violation of 30 TEX. ADMIN. CODE § 290.113(f)(4) and TEX. HEALTH & SAFETY CODE § 341.0315(c).
3. As evidenced by Findings of Fact No. 3, the Respondent failed to submit routine reports and any additional documentation that the Executive Director may require to determine compliance with the requirements of this chapter, in violation of 30 TEX. ADMIN. CODE § 290.46(f)(3)(c)(iii) and (f)(4).
4. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
5. An administrative penalty in the amount of One Thousand One Hundred Four Dollars (\$1,104) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b). The Respondent has paid the One Thousand One Hundred Four Dollar (\$1,104) administrative penalty.



### III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed an administrative penalty in the amount of One Thousand One Hundred Four Dollars (\$1,104) as set forth in Section II, Paragraph 5 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Megargel, Docket No. 2012-1289-PWS-E" to:

Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

2. The Respondent shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Agreed Order, submit the RPR, in accordance with 30 TEX. ADMIN. CODE § 290.46.
  - b. Within 45 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision No. 2.d. to demonstrate compliance with Ordering Provision No. 2.a.
  - c. Within 365 days after the effective date of this Agreed Order, return to compliance with the running annual average MCL for TTHM, in accordance with 30 TEX. ADMIN. CODE § 290.113.
  - d. Within 380 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.c. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false

information, including the possibility of fines and imprisonment for knowing violations.”

The certification shall be submitted to:

Order Compliance Team  
Enforcement Division, MC 149A  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

with a copy to:

Public Drinking Water Section Manager  
Water Supply Division, MC 155  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas (“OAG”) for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
6. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
7. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission’s jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

8. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
9. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

## SIGNATURE PAGE

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

  
\_\_\_\_\_  
For the Executive Director

2/8/13  
\_\_\_\_\_  
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of the City of Megargel. I am authorized to agree to the attached Agreed Order on behalf of the City of Megargel, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, the City of Megargel waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

  
\_\_\_\_\_  
Signature

9/27/12  
\_\_\_\_\_  
Date

Kelly DeSautel  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
City of Megargel

Mayor  
\_\_\_\_\_  
Title

**Instructions:** Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section III, Paragraph 1 of this Agreed Order.